IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 230 of 2007(S)

AGAINST THE ORDER DATED 26/10/2006 IN EP 13/2005 IN OP.632/2003 of FAMILY COURT, KOTTAYAM
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PETITIONERS:
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1. **BIJU, S/O. RAVEENDRAN,**
   VETTOOR HOUSE, VILLOONNI P.O.,
   ARPOOKKARA VILLAGE, KOTTAYAM.

2. **RAVEENDRAN, VETTOOR HOUSE,**
   VILLOONNI P.O., ARPOOKKARA VILLAGE,
   KOTTAYAM.

   BY ADV. SRI. M.P. MADHAVANKUTTY

RESPONDENT:

ASHA ASHOK,
PRASANTH BHAVAN, KAIPUZHAKARA,
KAIPUZHA VILLAGE, KOTTAYAM TALUK.

BY ADV. SRI. GEORGEKUTTY MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 230/2007(S)

A P P E N D I X

PETITIONER'S EXHIBITS:

EXT. P1	**:**	**COPY OF EXECUTION PETITION E.P. NO. 13/05 FILED BY THE RESPONDENT BEFORE THE FAMILY COURT, KOTTAYAM DATED 10.07.2006.**
EXT. P2	**:**	**COPY OF OBJECTION FILED BY PETITIONERS IN E.P. NO. 13/05 IN O.P. 632/03 BEFORE THE FAMILY COURT, KOTTAYAM AT ETTUMANOOR.**
EXT. P3	**:**	**COPY OF ORDER DATED 26.10.2006 IN E.P. NO. 13/05 IN O.P. 632/03 OF THE FAMILY COURT, KOTTAYAM AT ETTUMANOOR.**

// True Copy //

P.A. to Judge.

smp

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ.

W.P. (C) No. 230 OF 2007

Dated this the 29th day of May, 2007.

J U D G M E N T

Kurian Joseph, J.

This writ petition is filed challenging Exhibit P3 order passed by the Family Court, Kottayam in E.P. No. 13/2005 in O.P. No. 632/2003. There is no dispute that the petitioners owe an amount of Rs. 1,91,675/- to the respondent. The only question is whether the petitioners have sufficient means to pay the decree amount and whether they are willfully evading the payment.

2. The Family Court, on an elaborate consideration of the evidence available on record, came to the conclusion that the attempt was to evade or protract the payment. The Family Court also observed that in case arrest and detention is ordered, the amount can be easily realized.

3. On going through the judgment and after having heard the counsel of both sides, we are not persuaded to take a different view. However, the submission by the petitioners is that the property having an extent of 33.75 cents is already under attachment and in case the same is permitted to be sold by the petitioners, the proceeds would satisfy the decree. An amount of Rs. 50,000/- has already been paid.

4. There will be a direction to the petitioners to pay a further sum of Rs. 50,000/- within a period of one month from today. As far as the balance is concerned, there will be a direction to the Family court, Kottayam to permit the petitioners to have a private sale of the property under attachment with the permission of the court within a period of ten weeks from today. It is made clear that in case the said attempt is not fructified, the petitioners will deposit/pay the balance liability within a period of another one month.

Needless to say that since the sale is permitted by the court, the court will see that the liability to the respondent is realized out of the proceeds. Needless also to say that in case the proceeds are not sufficient to satisfy the decree, in that event also the balance will be paid within the above mentioned period of one month.

This writ petition is disposed of as above.

KURIAN JOSEPH
JUDGE

T.R. RAMACHANDRAN NAIR
JUDGE

smp